


OCA FILE

	OCA 3877-88
	<b>CENTRAL INTELLIGENCE AGENCY</b> Office of Congressional Affairs Washington, D.C. 20505 Telephone: 482-6126
<b>TO:</b> Ms. Robin Frank Assistant Legal Advisor National Security Council Staff Room 374A OEOB	
29 November 1988	
Dear Ms. Frank:	
<p>[redacted] passed on to me your request for position papers on the intelligence oversight bills from the 100th Congress. I believe the DCI's three statements before Committees of Congress on the various bills best sum up the major issues. They are attached.</p>	
<p>[redacted] Deputy Director for Legislation</p>	
Attachments	

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STATEMENT OF THE DIRECTOR OF CENTRAL INTELLIGENCE  
BEFORE THE FOREIGN AFFAIRS COMMITTEE  
HOUSE OF REPRESENTATIVES

14 JUNE 1988

MR. CHAIRMAN AND MEMBERS OF THE FOREIGN AFFAIRS COMMITTEE, I AM PLEASED TO BE HERE TODAY TO SHARE SOME OF MY THOUGHTS ON H.R. 3822, THE INTELLIGENCE OVERSIGHT ACT OF 1988. SINCE THIS IS THE FIRST TIME I HAVE APPEARED BEFORE THIS COMMITTEE AS DIRECTOR OF CENTRAL INTELLIGENCE, I ALSO WANT TO TAKE THIS OPPORTUNITY TO PROVIDE YOU WITH MY VIEWS ON THE RELATIONSHIP BETWEEN THIS COMMITTEE AND THE CIA.

THE VIEWS EXPRESSED IN THIS STATEMENT ON H.R. 3822 REFLECT THE POSITION OF THE ADMINISTRATION. I DRAW YOUR ATTENTION AT THE OUTSET TO THE ADMINISTRATION POSITION, AS CONVEYED TO CONGRESS IN THE PRESIDENT'S LEGISLATIVE MESSAGE, THAT A BILL WHICH FAILS TO PRESERVE THE FLEXIBILITY AND AUTHORITY THE PRESIDENT NEEDS TO CONDUCT INTELLIGENCE ACTIVITIES EFFECTIVELY WILL NOT BE ACCEPTABLE TO THE PRESIDENT.

MR. CHAIRMAN, MY TESTIMONY TODAY WILL BE THE THIRD TIME I HAVE TESTIFIED ON INTELLIGENCE OVERSIGHT LEGISLATION. I APPEARED LAST NOVEMBER BEFORE THE SENATE INTELLIGENCE COMMITTEE TO TESTIFY ON SIMILAR LEGISLATION AND IN FEBRUARY BEFORE THE HOUSE INTELLIGENCE COMMITTEE ON H.R. 3822. IN MY TESTIMONY BEFORE THOSE COMMITTEES, I FOCUSED PRIMARILY ON WHETHER THE LEGISLATION WAS TRULY NECESSARY, AND ON THE PRACTICAL IMPACT OF THE OVERSIGHT BILL ON THE

INTELLIGENCE COMMUNITY. I INTEND TO ADDRESS BOTH POINTS IN MY TESTIMONY TODAY ON THE HOUSE BILL.

### THE NEED FOR LEGISLATION

IN MY REMARKS BEFORE THE SENATE AND HOUSE INTELLIGENCE COMMITTEES I QUESTIONED THE NEED FOR THIS TYPE OF LEGISLATION. ALTHOUGH BOTH INTELLIGENCE COMMITTEES SUBSEQUENTLY DECIDED TO RECOMMEND APPROVAL OF THE LEGISLATION, I STILL BELIEVE THAT THIS LEGISLATION IS NOT A NECESSARY RESPONSE TO THE CONCERNS MEMBERS OF THE CONGRESS HAVE EXPRESSED ABOUT THE OVERSIGHT OF COVERT ACTION.

AS YOU KNOW, THE PRESIDENT RECOGNIZED LAST YEAR THAT THERE WAS ROOM FOR IMPROVEMENT IN THE WAY THE TWO BRANCHES WERE MEETING THEIR RESPONSIBILITIES. AS A RESULT, HE TOOK CONCRETE, SUBSTANTIAL STEPS TO ESTABLISH IMPROVED PROCEDURES TO ENSURE THAT CONGRESS IS GIVEN THE OPPORTUNITY TO PLAY ITS APPROPRIATE OVERSIGHT ROLE. THESE NEW PROCEDURES, IN THE FORM OF A NATIONAL SECURITY DECISION DIRECTIVE ON SPECIAL ACTIVITIES (NSDD-286), MUCH OF WHICH HAS BEEN DECLASSIFIED, CLARIFY THE RULES BY WHICH COVERT ACTIONS ARE REVIEWED, APPROVED, AND REPORTED TO CONGRESS. IN FACT, MANY OF THE PROPOSALS CONTAINED IN H.R. 3822 ARE ALREADY CONTAINED IN NSDD-286. THIS CAN BE ILLUSTRATED BY MAKING A FEW COMPARISONS BETWEEN THE BILL AND THE PRESIDENTIAL DIRECTIVE.

--THE BILL REQUIRES THAT FINDINGS BE IN WRITING, CANNOT BE

MADE RETROACTIVE, AND MUST BE CONSISTENT WITH EXISTING LAW.  
SIMILAR REQUIREMENTS ARE CONTAINED IN THE NSDD.

--THE BILL MAKES CLEAR THAT A PRESIDENTIAL FINDING MUST BE  
OBTAINED BEFORE ANY AGENCY OR DEPARTMENT CAN CONDUCT A COVERT  
ACTION. THE PRESIDENTIAL DIRECTIVE AFFIRMS THIS PRINCIPLE.

--THE BILL REQUIRES THAT A PRESIDENTIAL FINDING SPECIFY THE  
NAMES OF EACH DEPARTMENT OR AGENCY OF THE U.S. GOVERNMENT THAT  
IS FUNDING OR PARTICIPATING IN A SIGNIFICANT WAY IN A COVERT  
ACTION, AND WHETHER IT IS CONTEMPLATED THAT ANY THIRD PARTY  
WILL BE USED TO FUND OR OTHERWISE PARTICIPATE IN A SIGNIFICANT  
WAY IN THE COVERT ACTION. AGAIN, THE PRESIDENTIAL DIRECTIVE  
CONTAINS THE SAME REQUIREMENT.

IT IS NOT SURPRISING OR COINCIDENTAL THAT PROVISIONS OF THE  
BILL ARE SIMILAR TO THE PRESIDENTIAL DIRECTIVE. THE PROCEDURES  
THE PRESIDENT HAS INSTALLED WERE DEVELOPED FOLLOWING CLOSE AND  
PROLONGED CONSULTATION WITH MEMBERS AND STAFFS OF THE INTELLIGENCE  
COMMITTEES.

WHILE A PRESIDENTIAL DIRECTIVE IS NOT THE SAME AS LEGISLATION,  
I AM NOT PERSUADED THAT NEW LEGISLATION AT THIS TIME IS THE BEST  
WAY TO ADDRESS THE CONCERNS THAT MEMBERS HAVE WITH THE  
CONGRESSIONAL ROLE REGARDING SPECIAL ACTIVITIES. IN MY VIEW, A  
LEGISLATIVE REMEDY SHOULD BE EMPLOYED ONLY IF IT IS CLEAR THAT

THERE IS A BASIC DEFICIENCY IN THE OVERSIGHT PROCESS. THAT IS DOUBLY THE CASE WHEN THE LEGISLATIVE REMEDY PROPOSED RAISES CONSTITUTIONAL ISSUES THAT THREATEN TO DIVIDE THE TWO BRANCHES IN AN AREA WHERE EFFECTIVE WORK PLACES A PREMIUM ON COOPERATION.

THE IRAN/CONTRA MATTER, WHILE SERIOUS, HAS NOT IN MY VIEW DEMONSTRATED THAT THE SYSTEM OF CONGRESSIONAL OVERSIGHT OF THE INTELLIGENCE COMMUNITY ESTABLISHED UNDER CURRENT STATUTES IS SERIOUSLY FLAWED. MANY OF THE PROBLEMS EXPOSED WERE THE RESULT OF OFFICIALS FAILING TO FOLLOW EXISTING PROCEDURES AND RULES. AS YOU MAY BE AWARE, I HAVE TAKEN STEPS WITHIN THE CIA TO DISCIPLINE THOSE EMPLOYEES WHO FAILED TO FOLLOW CIA PROCEDURES OR WHO TESTIFIED TO CONGRESS IN A MANNER THAT WAS NOT CANDID OR COMPLETE. THOSE ACTIONS, TAKEN IN LIGHT OF THE REQUIREMENTS DEFINED BY CURRENT STATUTE, IN MY VIEW HAVE ADEQUATELY ADDRESSED THE PROBLEMS WE FOUND. SIMILARLY, TO THE EXTENT THAT THERE WERE ANY PROCEDURAL SHORTCOMINGS DEMONSTRATED BY THE IRAN/CONTRA MATTER, THEY HAVE ALREADY BEEN ADDRESSED BY THE NEW PRESIDENTIAL DIRECTIVE WITHIN THE PRESENT STATUTORY FRAMEWORK.

I WOULD LIKE TO EMPHASIZE THAT ANY LEGISLATION THAT IS ENACTED SHOULD NOT ADVERSELY AFFECT THE INTELLIGENCE COMMUNITY'S ABILITY TO DO ITS JOB. IN THIS CONNECTION, MR. CHAIRMAN, THE BILL PASSED BY THE SENATE IN MARCH AND THE BILL MARKED UP BY THE HOUSE INTELLIGENCE COMMITTEE HAVE ADDRESSED CONSTRUCTIVELY SOME OF THE IMPORTANT SUBSTANTIVE CONCERNS I AND OTHER ADMINISTRATION

OFFICIALS RAISED WITH THE ORIGINAL SENATE BILL INTRODUCED IN THAT BODY. BOTH THE HOUSE AND SENATE BILLS, FOR EXAMPLE, RECOGNIZE THE NEED TO REPORT ON SPECIAL ACTIVITIES AND INTELLIGENCE COLLECTION IN A MANNER CONSISTENT WITH DUE REGARD FOR THE PROTECTION OF SENSITIVE INTELLIGENCE SOURCES AND METHODS. I AM ALSO PLEASED THAT NEITHER BILL REQUIRES THAT THE FINDING SPECIFY THE IDENTITY OF FOREIGN COUNTRIES ASSISTING THE AGENCY IN THE CONDUCT OF COVERT ACTION. THESE IMPORTANT SAFEGUARDS WILL IN MY VIEW GO A LONG WAY IN ASSURING FRIENDLY INTELLIGENCE SERVICES AND POTENTIAL AGENTS THAT SOURCE-IDENTIFYING INFORMATION WILL NOT BE WIDELY DISSEMINATED AND POSSIBLY COMPROMISED.

I AM ALSO VERY PLEASED WITH THE CHANGES IN THE ORIGINAL HOUSE VERSION OF THE BILL MADE BY THE HOUSE INTELLIGENCE COMMITTEE IN RESPONSE TO CONCERNS I RAISED BEFORE THAT COMMITTEE. MY RESERVATIONS REGARDED THE DEFINITION OF COVERT ACTION, THE EXPENDITURE OF NON-APPROPRIATED FUNDS AND THE REPORTING OF THE TRANSFER OF DEFENSE ARTICLES OR SERVICES. IN PARTICULAR, THE NEW DEFINITION OF COVERT ACTION REMOVES MUCH OF THE AMBIGUITY OVER WHAT CONSTITUTES A COVERT ACTION AND IS IN MY VIEW A DISTINCT IMPROVEMENT OVER THE CURRENT DEFINITIONS.

#### PRIOR NOTICE OF SPECIAL ACTIVITIES

WHILE THE INTELLIGENCE COMMITTEES HAVE ADDRESSED SEVERAL CONCERNS PREVIOUSLY RAISED IN MY TESTIMONY BEFORE THOSE

COMMITTEES, THERE IS ONE AREA OF THE BILL THAT REMAINS PARTICULARLY TROUBLESOME. THIS AREA OF DIFFICULTY INVOLVES THE PROVISION OF THE BILL THAT REQUIRES NOTIFICATION OF A COVERT ACTION TO CONGRESS, WITHOUT EXCEPTION, WITHIN 48 HOURS AFTER THE SIGNING OF A FINDING. LAST SUMMER, THE DEPARTMENT OF JUSTICE PROVIDED THE CONGRESS WITH ITS VIEWS ON THE CONSTITUTIONALITY OF SUCH A PROVISION, SO I WILL NOT ADDRESS THAT ISSUE HERE. I HAVE TWO SEPARATE CONCERNS ABOUT THIS PROVISION.

FIRST, THE FACT THAT THERE IS A SHARP DIFFERENCE OF INTERPRETATION BETWEEN THE VIEW OF THE ADMINISTRATION AND THE POSITION EMBODIED IN THIS BILL REGARDING THIS PROVISION'S CONSTITUTIONAL VALIDITY WILL PROMOTE TENSION BETWEEN THE EXECUTIVE AND LEGISLATIVE BRANCHES FOR YEARS TO COME. IN THE INTELLIGENCE AREA SUCH TENSION HAS THE POTENTIAL TO DISRUPT THE COOPERATION AND TRUST THAT EFFECTIVE NATIONAL SECURITY POLICY REQUIRES.

SECOND, I BELIEVE THAT AS A PRACTICABLE MATTER ALLOWANCE MUST BE MADE FOR THAT RARE CASE WHERE A LIMITED DELAY IN CONGRESSIONAL NOTIFICATION IS CRITICAL TO PRESERVE THE ABSOLUTE SECURITY OF AN OPERATION WHEN, FOR EXAMPLE, LIVES ARE AT STAKE. IN SUCH A RARE CASE, THE SUCCESS OF AN OPERATION MAY DEPEND ON THE COOPERATION OF A FOREIGN GOVERNMENT THAT HAS CONDITIONED ITS SUPPORT ON THE PRESIDENT DELAYING CONGRESSIONAL NOTIFICATION UNTIL THE OPERATION IS COMPLETED. AN INFLEXIBLE NOTIFICATION REQUIREMENT COULD FORCE A PRESIDENT TO CHOOSE BETWEEN PROVIDING THE CONGRESSIONALLY



REQUIRED NOTIFICATION WITHIN 48 HOURS AND JEOPARDIZING THE LIVES OF INNOCENT AMERICANS, OR DELAYING THAT NOTIFICATION TO PROTECT THOSE LIVES. I CAN UNDERSTAND WHY ANY PRESIDENT WOULD BE RELUCTANT TO AGREE TO A LAW THAT WOULD REQUIRE SUCH CHOICES.

IT IS WORTHWHILE TO NOTE THAT CONCERNS ABOUT EXCESSIVE DELAY IN CONGRESSIONAL NOTIFICATION OF A SPECIAL ACTIVITY HAVE ALREADY BEEN ADDRESSED BY NSDD 286. THAT DIRECTIVE REQUIRES THE NATIONAL SECURITY PLANNING GROUP TO REEVALUATE AT LEAST EVERY 10 DAYS A DECISION TO DELAY CONGRESSIONAL NOTIFICATION OF A GIVEN FINDING. THIS WILL ENSURE THAT WHEN A DELAY IN NOTIFICATION IS NECESSARY, THE REASON FOR THAT DECISION WILL BE CONTINUALLY REASSESSED BY RESPONSIBLE SENIOR OFFICERS OF SEVERAL AGENCIES OR DEPARTMENTS SO THAT THE DELAY WILL BE AS SHORT AS POSSIBLE. I REPEAT, HOWEVER, THAT I CAN THINK OF FEW CIRCUMSTANCES THAT WOULD EVER NECESSITATE SUCH EXTRAORDINARY STEPS.

IF THE COMMITTEE SHOULD NEVERTHELESS DECIDE THAT LEGISLATION IS NECESSARY TO LIMIT THE PRESIDENT'S AUTHORITY TO DELAY NOTIFICATION, I WOULD URGE MEMBERS TO GIVE SERIOUS CONSIDERATION TO LANGUAGE CONTAINED IN A BILL PROPOSED BY RANKING MINORITY MEMBER BROOMFIELD THAT WOULD ALLOW THE PRESIDENT TO DELAY NOTIFICATION IF HE DETERMINES THAT AN EMERGENCY CONSTITUTING A GRAVE AND IMMEDIATE THREAT TO THE NATIONAL SECURITY OF THE UNITED STATES EXISTS. WHILE SUCH A STANDARD MAY NOT COVER ALL SITUATIONS WHERE LIVES ARE AT STAKE, IT WOULD ALLOW THE PRESIDENT THE

FLEXIBILITY TO DELAY NOTIFICATION IN CIRCUMSTANCES WHERE THE GOVERNMENT FACES A GRAVE AND IMMEDIATE THREAT TO ITS SECURITY.

ACCESS BY FOREIGN AFFAIRS COMMITTEE TO INTELLIGENCE INFORMATION

ALTHOUGH NOT DIRECTLY RELEVANT TO THE LEGISLATION BEFORE THIS COMMITTEE, I THOUGHT THIS WOULD BE AN APPROPRIATE TIME TO ADDRESS A CONCERN I UNDERSTAND SOME MEMBERS HAVE WITH RESPECT TO ACCESS BY THE FOREIGN AFFAIRS COMMITTEE TO INTELLIGENCE INFORMATION. IN MY VIEW, THE FOREIGN AFFAIRS COMMITTEE DOES HAVE A LEGITIMATE NEED FOR INFORMATION ABOUT DEVELOPMENTS AROUND THE WORLD. SOME OF THIS INFORMATION IS CLASSIFIED. OUR BEST INTELLIGENCE ANALYSIS ABOUT THE SIGNIFICANCE AND IMPLICATIONS OF SUCH DEVELOPMENTS CAN PLAY AN IMPORTANT PART IN THE COMMITTEE DOING ITS WORK PROPERLY.

I BELIEVE THE RECORD WILL SHOW THAT THE CENTRAL INTELLIGENCE AGENCY HAS, IN FACT, BEEN RESPONSIVE TO THE REQUEST OF THE COMMITTEE FOR SUCH INFORMATION. SOME RECENT STATISTICS HELP TO ILLUSTRATE THIS POINT. DURING THE PERIOD FROM 1986 TO THE PRESENT, THERE HAVE BEEN 48 STAFF BRIEFINGS, 68 MEMBER BRIEFINGS, AND 14 APPEARANCES BEFORE THE COMMITTEE INVOLVING FORMAL TESTIMONY. TO THE CONGRESS AS A WHOLE, CIA NOW PROVIDES MORE THAN 1,000 BRIEFINGS PER YEAR. LISTENING TO THESE BRIEFINGS TAKES A GREAT DEAL OF VALUABLE TIME ON YOUR PART, SO I GATHER YOU FIND THEM USEFUL.

THE SUBSTANCE OF THE INFORMATION CONVEYED BY THE AGENCY TO THE CONGRESS HAS RANGED FROM PRETRIP BRIEFINGS ON PARTICULAR COUNTRIES FOR MEMBERS TO FORMAL TESTIMONY ON THE DISASTER AT CHERNOBYL OR TERRORISM IN GENERAL. IN ADDITION, THE COMMITTEE HAS ACCESS TO THE NATIONAL INTELLIGENCE DAILY, OUR NATIONAL INTELLIGENCE ESTIMATES AND A VARIETY OF OTHER INTELLIGENCE PUBLICATIONS. I WOULD URGE MEMBERS OF THIS COMMITTEE WHO ARE INTERESTED IN OBTAINING MORE INTELLIGENCE INFORMATION TO TAKE ADVANTAGE OF THE ACCESS OF THE COMMITTEE TO THIS WEALTH OF INFORMATION.

WHILE I BELIEVE WE HAVE BEEN RESPONSIVE TO THE COMMITTEE'S REQUEST FOR INTELLIGENCE INFORMATION, I HOPE THAT YOU WILL UNDERSTAND MY NEED TO PROTECT FROM DISCLOSURE OPERATIONAL INTELLIGENCE INFORMATION THAT MIGHT JEOPARDIZE OUR SOURCES AND METHODS FOR GATHERING THIS INFORMATION. WHEN THIS INFORMATION IS COMPROMISED, NOT ONLY IS THE PARTICULAR SOURCE OF INTELLIGENCE LOST TO THE U.S. GOVERNMENT, BUT OTHERS BECOME RELUCTANT TO COOPERATE FOR FEAR THEIR IDENTITIES WILL ALSO BE DISCLOSED. IN SOME CASES IT MAY BE ADVISABLE TO DISCLOSE SENSITIVE OPERATIONAL INFORMATION IN ORDER FOR CONGRESS TO CONDUCT EFFECTIVE OVERSIGHT. A DECISION WAS MADE BY CONGRESS ITSELF IN 1980 TO LIMIT THIS TYPE OF INFORMATION TO THE INTELLIGENCE COMMITTEES. THIS DECISION WAS A WISE ONE, AND I WOULD STRONGLY OPPOSE ANY PROPOSAL TO EXPAND THE NUMBER OF CONGRESSIONAL COMMITTEES DIRECTLY INVOLVED IN INTELLIGENCE OVERSIGHT.

ACCESS TO COVERT ACTION INFORMATION

IN ADDITION TO THE QUESTION OF ACCESS TO INTELLIGENCE INFORMATION IN GENERAL, I UNDERSTAND SOME MEMBERS ARE CONCERNED THAT THE THE FOREIGN AFFAIRS COMMITTEE IS NOT BEING BRIEFED ON COVERT ACTIONS THAT HAVE SIGNIFICANT FOREIGN POLICY IMPLICATIONS. UNDER EXISTING LAW AND THE INTELLIGENCE OVERSIGHT BILL BEING CONSIDERED BY THIS COMMITTEE, ACCESS TO COVERT ACTION INFORMATION IS CONFINED TO THE INTELLIGENCE OVERSIGHT COMMITTEES AND THE DEFENSE SUBCOMMITTEES OF THE APPROPRIATIONS COMMITTEES. I DO NOT BELIEVE IT IS NECESSARY OR WISE TO EXPAND THE NUMBER OF COMMITTEES TO WHICH WE MUST REPORT COVERT ACTIONS. TO DO SO WOULD SIMPLY RETURN US TO THE SITUATION EXISTING BEFORE THE INTELLIGENCE OVERSIGHT ACT OF 1980 WHEN WE HAD TO PROVIDE COVERT ACTION INFORMATION TO EIGHT COMMITTEES OF CONGRESS. THIS SITUATION MADE IT ALMOST IMPOSSIBLE TO CONDUCT COVERT ACTION COVERTLY.

I BELIEVE THAT THE CONCERN EXPRESSED BY SOME REGARDING THE LACK OF COMMITTEE ACCESS TO COVERT ACTION INFORMATION MAY BE THE RESULT OF A MISPERCEPTION AS TO HOW COVERT ACTION RELATES TO OUR FOREIGN POLICY. COVERT ACTION IS IMPLEMENTATION BY CLANDESTINE MEANS OF THE FOREIGN POLICY OF THE UNITED STATES GOVERNMENT. OUR FOREIGN POLICY IS FORMULATED BY THE PRESIDENT AND THE SECRETARY OF STATE.

THE DIRECTOR OF CENTRAL INTELLIGENCE SHOULD NOT MAKE FOREIGN POLICY OR USE COVERT ACTION AS A VEHICLE FOR CREATING A SECRET FOREIGN POLICY. BECAUSE THE SECRETARY OF STATE IS OBLIGATED TO KEEP THE FOREIGN AFFAIRS COMMITTEE INFORMED OF OUR FOREIGN POLICY, I BELIEVE THAT THE COMMITTEE DOES HAVE THE NECESSARY MEANS TO MAKE ITS VIEWS KNOWN REGARDING FOREIGN POLICY, INCLUDING THOSE SPECIFIC POLICIES BEING IMPLEMENTED BY A COVERT ACTION.

IF YOU BELIEVE THAT THE ARRANGEMENT I HAVE DESCRIBED IS NOT ADEQUATE TO ENSURE THAT THE VIEWS OF THE FOREIGN AFFAIRS COMMITTEE ARE REPRESENTED IN THE OVERSIGHT OF COVERT ACTION, I WOULD SUGGEST CONGRESS CONSIDER GREATER USE OF CROSS-OVER MEMBERSHIP BETWEEN THE FOREIGN AFFAIRS COMMITTEE AND THE HOUSE INTELLIGENCE COMMITTEE. SUCH CROSS-OVER MEMBERS ARE IN THE BEST POSSIBLE POSITION TO EXPRESS THE VIEWS OF THE FOREIGN AFFAIRS COMMITTEE IN DELIBERATIONS CONDUCTED BY THE HOUSE INTELLIGENCE COMMITTEE. SOME OF YOU NOW SERVE OR HAVE IN THE PAST SERVED VERY EFFECTIVELY IN THIS WAY.

IN CLOSING, I WOULD LIKE TO REEMPHASIZE TO EACH OF YOU MY PERSONAL COMMITMENT TO MAKING THE OVERSIGHT PROCESS WORK. IT HAS ALWAYS BEEN CLEAR, AND RECENT EXPERIENCE HAS AGAIN DEMONSTRATED, THAT THE IMPLEMENTATION OF THE FOREIGN POLICY OF OUR GOVERNMENT, INCLUDING COVERT ACTION, CAN ONLY BE SUCCESSFUL WHEN THE EXECUTIVE AND LEGISLATIVE BRANCHES OF GOVERNMENT WORK TOGETHER IN AN ATMOSPHERE OF MUTUAL RESPECT AND TRUST. THIS SPIRIT OF COOPERATION CAN ONLY OCCUR IF THE CONGRESS RECEIVES THE

APPROPRIATE INFORMATION NEEDED TO REVIEW AND MAKE INFORMED JUDGMENTS ON COVERT ACTION, WHILE AT THE SAME TIME ENSURING THAT THIS INFORMATION IS PROTECTED FROM UNAUTHORIZED DISCLOSURE. THE LAW SHOULD REFLECT NOT ONLY THE NEED FOR COOPERATION, BUT ALSO THE PRESIDENT'S RESPONSIBILITY FOR THE CONDUCT AND MANAGEMENT OF OUR INTELLIGENCE AND THE IMPORTANCE TO THE NATION OF ENSURING THAT THE PRESIDENT HAS THE NECESSARY FLEXIBILITY AND AUTHORITY TO EMPLOY OUR INTELLIGENCE CAPABILITY EFFECTIVELY.

AS I HAVE NOTED, THE PRESIDENT HAS TAKEN CORRECTIVE STEPS TO IMPROVE THE OVERSIGHT SYSTEM THROUGH A PRESIDENTIAL DIRECTIVE. AT CIA, I HAVE APPROVED A NUMBER OF MEASURES THAT WILL PREVENT A REPETITION OF THE SHORTCOMINGS IN THE AGENCY'S PERFORMANCE IN THE IRAN/CONTRA MATTER. IN SHORT, SIGNIFICANT CHANGES HAVE BEEN MADE. I WOULD RESPECTFULLY SUBMIT THAT THEY SHOULD BE GIVEN A CHANCE TO WORK. INDEED, THEY ARE WORKING. I AM CONVINCED THAT THE CURRENT FRAMEWORK, AND NOT NEW LAWS, REPRESENTS THE MOST APPROPRIATE AND EFFECTIVE MEANS TO ACHIEVE OUR SHARED COMMITMENT TO HAVE CONGRESS PLAY AN ACTIVE, EFFECTIVE ROLE IN THE OVERSIGHT OF UNITED STATES INTELLIGENCE ACTIVITIES.

THIS CONCLUDES MY STATEMENT. I AM PREPARED TO ANSWER YOUR QUESTIONS.

STATEMENT OF THE  
DIRECTOR OF CENTRAL INTELLIGENCE  
BEFORE THE SELECT COMMITTEE ON INTELLIGENCE  
UNITED STATES SENATE

1 MARCH 1988

MR. CHAIRMAN AND MEMBERS OF THE SELECT COMMITTEE ON INTELLIGENCE, I AM PLEASED TO BE HERE TODAY TO DISCUSS MY VIEWS ON SECTION FOUR OF S. 1818, THE NATIONAL SECURITY REFORM ACT OF 1987, WHICH PERTAINS TO THE ESTABLISHMENT OF A STATUTORY INSPECTOR GENERAL AT THE CENTRAL INTELLIGENCE AGENCY.

THE PURPOSE OF THE PROPOSAL, AS I UNDERSTAND IT, IS TO STRENGTHEN THE INDEPENDENCE AND OBJECTIVITY OF THE INSPECTOR GENERAL. AS SENATOR SPECTER DESCRIBED IT, IT IS "TO HELP ASSURE LAWFUL INTERNAL COMPLIANCE ON MATTERS WHICH DO NOT COME WITHIN THE PURVIEW OF CONGRESSIONAL OVERSIGHT." IT WOULD ADD THE CIA TO THE LIST OF FEDERAL AGENCIES WHICH CURRENTLY HAVE STATUTORY INSPECTORS GENERAL.

BEFORE I PROVIDE YOU WITH MY THOUGHTS ON SENATOR SPECTER'S MEASURE, I WOULD FIRST LIKE TO EXPLAIN BRIEFLY WHAT THE CIA INSPECTOR GENERAL CURRENTLY DOES AND HOW THE OFFICE OF INSPECTOR GENERAL IS NOW ORGANIZED.

THE CIA ALREADY HAS AN INSPECTOR GENERAL WHO IS A SENIOR OFFICER REPORTING DIRECTLY TO THE DCI AND DDCI AND WHO IS SUBORDINATE ONLY TO THE DCI AND DDCI. IN THE CONDUCT OF HIS DUTIES, THE INSPECTOR GENERAL HAS UNLIMITED AND AUTOMATIC ACCESS TO ALL AGENCY RECORDS.



THE INSPECTOR GENERAL CURRENTLY DIRECTS AND COORDINATES THE ACTIVITIES OF THREE GROUPS: THE INSPECTION STAFF, THE INVESTIGATION STAFF AND THE AUDIT STAFF. THESE THREE GROUPS CONDUCT SPECIAL INVESTIGATIONS WHEN NEEDED, ROUTINE INSPECTIONS AND AUDITS. ALL ELEMENTS OF THE AGENCY, BOTH AT HEADQUARTERS AND IN THE FIELD, ARE SUBJECT TO EXAMINATION. ONLY THE DCI HAS THE AUTHORITY TO EXEMPT A COMPONENT OR PROGRAM FROM AN INSPECTION OR AN AUDIT. TO THE BEST OF MY KNOWLEDGE, NO DCI HAS EVER EXERCISED THIS POWER.

BEFORE I EXPLAIN THE WORKINGS OF THE THREE GROUPS UNDER THE DIRECTION OF THE INSPECTOR GENERAL, LET ME EMPHASIZE THAT, IN ADDITION TO HIS NORMAL INSPECTION, INVESTIGATION AND AUDIT ACTIVITIES, THE INSPECTOR GENERAL NOW HAS MUCH BROADER POLICY AND MANAGEMENT FUNCTIONS WITHIN CIA. AS PART OF THE NEW RESPONSIBILITIES I HAVE ASSIGNED TO THAT OFFICE, HE WILL BE DIRECTLY INVOLVED IN IMPROVING OVERALL AGENCY MANAGEMENT, ENSURING ACCOUNTABILITY AND DISCIPLINE, AND ENCOURAGING THE RAISING OF STANDARDS AND QUALITY OF PERFORMANCE THROUGHOUT THE AGENCY.

I SEE THE OFFICE OF INSPECTOR GENERAL AS PERFORMING ANOTHER NEW AND PERHAPS EVEN MORE CRITICAL INSTITUTIONAL ROLE, AND THAT IS DEVELOPING OUR TOP MANAGERS AND LEADERS OF TOMORROW. HENCEFORTH AN ASSIGNMENT TO THE OFFICE OF INSPECTOR GENERAL WILL BE A NECESSARY AND MEANINGFUL COMPONENT IN THE CAREER DEVELOPMENT OF OUR BRIGHTEST AND MOST PROMISING OFFICERS. I AM PERSONALLY COMMITTED TO THE GOAL OF IDENTIFYING AND BRINGING OUR BEST PEOPLE TO THE OFFICE, AND I AM PLEASED TO SAY THAT WE ARE ALREADY WELL ON THE WAY TOWARDS FULFILLING THAT GOAL.

THE INSPECTION STAFF, THE FIRST OF THE THREE GROUPS UNDER THE SUPERVISION OF THE INSPECTOR GENERAL, CONDUCTS PERIODIC INSPECTIONS OF ALL AGENCY COMPONENTS TO ENSURE COMPLIANCE WITH LAWS AND REGULATIONS. IT ALSO ADDRESSES PROBLEMS BROUGHT TO ITS ATTENTION AND EVALUATES MANAGEMENT EFFECTIVENESS. IN COMPLIANCE WITH EXECUTIVE ORDERS 12333 AND 12334, THE INSPECTOR GENERAL AND, FOR THAT MATTER, THE GENERAL COUNSEL WILL REPORT, TO THE EXTENT PERMITTED BY LAW, TO THE PRESIDENT'S INTELLIGENCE OVERSIGHT BOARD ANY INTELLIGENCE ACTIVITIES WHICH HE HAS REASON TO BELIEVE MAY BE UNLAWFUL OR CONTRARY TO EXECUTIVE ORDER OR PRESIDENTIAL DIRECTIVE. LIKEWISE, THE INTELLIGENCE OVERSIGHT ACT, § 501 OF THE NATIONAL SECURITY ACT OF 1947, REQUIRES THE AGENCY TO REPORT TO THE INTELLIGENCE COMMITTEES ANY ILLEGAL INTELLIGENCE ACTIVITY, ALONG WITH ANY CORRECTIVE MEASURES TAKEN OR PLANNED TO BE TAKEN.

THE INVESTIGATION STAFF, THE SECOND OF THE THREE GROUPS, HANDLES COMPLAINTS ABOUT EMPLOYEE CONDUCT AND REPORTS OF POSSIBLE VIOLATIONS OF LAW, REGULATIONS OR PROCEDURES, AND ALSO INVESTIGATES EMPLOYEE GRIEVANCES AND DISCRIMINATION COMPLAINTS. IN THE PAST FOUR YEARS, THIS STAFF HAS HANDLED AN AVERAGE OF TWO DOZEN INVESTIGATIONS THAT HAVE CULMINATED IN FORMAL REPORTS, AND AN ADDITIONAL 75 INFORMAL INQUIRIES AND GRIEVANCE REFERRALS OR CONSULTATIONS PER YEAR THAT DO NOT RESULT IN FORMAL REPORTS.

THE AUDIT STAFF PERFORMS INDEPENDENT AUDITS OF ALL MATTERS RELATED TO THE RECEIPT, DISBURSEMENT AND APPLICATION OF FUNDS AND ASSETS AVAILABLE TO THE AGENCY IN ACCORDANCE WITH AUDIT STANDARDS WHICH THE COMPTROLLER GENERAL HAS ESTABLISHED. THE CHIEF OF THE AUDIT STAFF REPORTS THE AUDITORS' OBSERVATIONS AND RECOMMENDATIONS TO THE DEPUTY DIRECTOR OF THE OFFICE CONCERNED AND TO OTHER OFFICIALS AS APPROPRIATE. THE DEPUTY DIRECTOR MUST REPLY TO AUDIT RECOMMENDATIONS WITHIN 60 DAYS. IF RECOMMENDATIONS CANNOT BE RESOLVED SATISFACTORILY AT OPERATING LEVELS, THEY MAY BE REFERRED TO ME THROUGH THE INSPECTOR GENERAL FOR RESOLUTION.

AS I SAID EARLIER, THERE ARE NO LIMITATIONS ON THE SCOPE OF AUDITS AND INVESTIGATIONS. THE INVESTIGATORS, INSPECTORS AND AUDITORS HAVE COMPLETE ACCESS TO ANY INFORMATION WITHIN CIA AND THE DCI'S STAFF ELEMENTS, BOTH AT HEADQUARTERS AND IN THE FIELD. AUDITORS, INVESTIGATORS AND INSPECTORS, AS WELL AS THEIR SUPERVISORS, ARE GRANTED SPECIAL CLEARANCES WHEN NEEDED TO REVIEW EXTREMELY SENSITIVE COMPARTMENTED ACTIVITIES.

DESPITE THE MANY STRENGTHS OF THE INVESTIGATION PROCESS, I DISCOVERED THAT SOME AREAS OF THE OFFICE OF INSPECTOR GENERAL NEEDED TO BE IMPROVED IN THE WAKE OF THE IRAN-CONTRA AFFAIR. AS YOU KNOW, I BROUGHT IN A SPECIAL COUNSEL, RUSSELL BRUEMMER, TO REVIEW THE AGENCY'S PERFORMANCE IN THE AFFAIR. IN HIS REPORT, MR. BRUEMMER, WHO NOW SERVES AS THE CIA'S GENERAL COUNSEL, PINPOINTED THE FOLLOWING PROBLEMS IN THE OFFICE OF INSPECTOR GENERAL:

-- THE NUMBER OF INVESTIGATORS ASSIGNED TO THE INVESTIGATION STAFF WERE NOT ENOUGH TO DEAL WITH THE DEMANDS OF A MAJOR INVESTIGATION;

-- THE INVESTIGATORS DO NOT RECEIVE FORMALIZED TRAINING IN INVESTIGATIVE TECHNIQUES WHEN THEY ROTATE INTO THIS ASSIGNMENT; AND

-- THE INVESTIGATORS DO NOT RECORD THEIR RECOLLECTIONS AS VERBATIM TRANSCRIPTS, SIGNED STATEMENTS OR FORMAL MEMORANDA FOR THE RECORD.

THE REPORT OF THE IRAN-CONTRA COMMITTEES HAD EARLIER REFLECTED THESE CONCERNS MORE GENERALLY BY STATING THAT THE OFFICE LACKED THE MANPOWER, RESOURCES AND TENACITY TO UNCOVER KEY FACTS LEARNED IN OTHER INVESTIGATIONS OF THAT MATTER.

AT THE SAME TIME, IT IS IMPORTANT TO KEEP IN MIND THAT THE SPECIAL COUNSEL NOTED IMPORTANT STRENGTHS WITHIN THAT OFFICE. FOR INSTANCE, HE DETERMINED, IN SPITE OF THE PROBLEMS I JUST DESCRIBED, THAT THE INSPECTOR GENERAL'S STAFF PERFORMED WELL IN DETERMINING THE AGENCY'S ROLE IN THE IRAN ARMS SALES. IN A MATTER OF SIX WEEKS AFTER THE ATTORNEY GENERAL'S ANNOUNCEMENT OF THE SALES, THE INVESTIGATION TEAM PRODUCED A 40-PAGE REPORT ON THE AGENCY'S ROLE AND A 35-PAGE CHRONOLOGY THAT HAVE BEEN PROVEN TO BE ESSENTIALLY ACCURATE AFTER MANY MORE MONTHS OF ADDITIONAL TESTIMONY.

NONETHELESS, IN LIGHT OF THE APPARENT SHORTCOMINGS OF THE OFFICE OF INSPECTOR GENERAL IDENTIFIED BY THE IRAN-CONTRA COMMITTEES AND MY SPECIAL COUNSEL, I CONVENED A STEERING GROUP LAST NOVEMBER COMPOSED OF SENIOR AGENCY MANAGERS TO RECOMMEND SPECIFIC WAYS IN WHICH THE OFFICE COULD BE IMPROVED. ITS FINDINGS MIRRORED TO A LARGE DEGREE THOSE OF THE IRAN-CONTRA COMMITTEES AND THE SPECIAL COUNSEL. THAT IS, THAT THE OFFICE'S MANPOWER AND THE QUALIFICATIONS OF ITS PERSONNEL SHOULD BE STRENGTHENED AND ITS INVESTIGATIVE STAFF MORE RIGOROUSLY TRAINED TO ENABLE IT TO IDENTIFY AREAS OF POTENTIAL IMPROPRIETY OR VIOLATIONS OF STATUTES AND REGULATIONS BETTER AND TO IDENTIFY CLEARLY AND DEAL PROPERLY WITH ACTUAL VIOLATIONS OF LAW.

THE STEERING GROUP ALSO DETERMINED THAT THERE WAS ROOM FOR IMPROVEMENT IN THE ROLE OF THE INSPECTOR GENERAL HIMSELF; SPECIFICALLY, THAT THE AUTHORITY, STATUS AND IMAGE OF THE POSITION SHOULD BE ENLARGED. PERHAPS MORE IMPORTANT, THE INSPECTOR GENERAL'S RELATIONSHIP WITH ME SHOULD BE ENHANCED.

I HAVE ALREADY IMPLEMENTED MEASURES THAT I BELIEVE WILL GO A LONG WAY TOWARD ALLEVIATING THE PROBLEMS I HAVE NOTED. SO FAR I HAVE:

-- TAKEN STEPS TO ENSURE THAT THE INSPECTOR GENERAL IS RECOGNIZED AS BEING EQUIVALENT IN RANK AND POSITION TO A DEPUTY DIRECTOR, SUBORDINATE ONLY TO ME AND THE DDCI, AND HAVE ENSURED THAT BOTH HIS INSPECTION AND INVESTIGATION REPORTS ARE SENT DIRECTLY TO ME AND TO THE DDCI;

-- TAKEN STEPS TO INCREASE THE STAFF OF THE OFFICE;

-- EXPANDED THE INSPECTOR GENERAL'S ROLE TO INCLUDE BECOMING DIRECTLY INVOLVED IN IMPROVING OVERALL AGENCY MANAGEMENT, ENSURING ACCOUNTABILITY AND DISCIPLINE AND ENCOURAGING THE RAISING OF STANDARDS AND QUALITY OF PERFORMANCE WITHIN THE AGENCY, IN ADDITION TO CONDUCTING HIS NORMAL INVESTIGATION, INSPECTION AND AUDIT ACTIVITIES; AND

-- APPOINTED WILLIAM DONNELLY TO HEAD THIS ENHANCED OFFICE OF INSPECTOR GENERAL. MR. DONNELLY IS A WIDELY-RESPECTED AGENCY OFFICER WHO, IN 33 YEARS WITH THE AGENCY, HAS COMPILED AN EXTENSIVE OPERATIONAL, MANAGEMENT AND ADMINISTRATIVE BACKGROUND THAT GIVES HIM A UNIQUE PERSONAL INSIGHT INTO A WIDE RANGE OF AGENCY ACTIVITIES.

UNDER MY TENURE THE PROCESS OF DEFINING THE DUTIES AND RESPONSIBILITIES OF THE INSPECTOR GENERAL WILL BE A CONTINUING AND EVOLUTIONARY PROCESS. SOME OTHER STEPS CURRENTLY UNDER DEVELOPMENT, BUT NOT YET FULLY STAFFED, INCLUDE:

- STRENGTHENING AGENCY REGULATIONS PERTAINING TO THE INSPECTOR GENERAL'S RESPONSIBILITIES;
- REORGANIZING THE OFFICE TO INCLUDE THE EXPANSION OF THE INVESTIGATION STAFF;
- DEVELOPING TRAINING AND INVESTIGATIVE PROCEDURES; AND
- IDENTIFYING THOSE ACTIVITIES WHICH THE INSPECTOR GENERAL NEEDS TO REVIEW FROM TIME TO TIME.



I AM CONCERNED THAT ENACTMENT OF A STATUTORY INSPECTOR GENERAL WILL ACTUALLY PROVE TO BE COUNTERPRODUCTIVE TO AN EFFECTIVE INSPECTION AND INVESTIGATION PROCESS AT THE CIA. FIRST, THE USE OF THE SUBPOENA POWER COULD BE COUNTERPRODUCTIVE TO OBTAINING ALL THE FACTS. ADMINISTRATIVE ACTIONS ARE NOT CRIMINAL PROCEEDINGS. VOLUNTARY COOPERATION IS ESSENTIAL IN LEARNING THE FACTS AS SOON AS POSSIBLE AND IMPLEMENTING ANY NECESSARY CORRECTIVE ACTIONS AS SMOOTHLY AS POSSIBLE. AT BEST, INJECTING THE SUBPOENA POWER INTO THE INVESTIGATION PROCESS WILL MERELY SERVE TO COMPLICATE IT.

I SHOULD ALSO NOTE THAT HISTORICALLY, THE FACT THAT THE AGENCY HAS HAD NO SUBPOENA POWER IS NO ACCIDENT. AS A RESULT OF A CAREFULLY CONSIDERED DECISION OF THE CONGRESS IN 1947, THE AGENCY WAS SPECIFICALLY NOT VESTED WITH ANY SUBPOENA OR LAW ENFORCEMENT POWERS. IT WAS CONCLUDED THEN, AND I RESPECTFULLY SUBMIT THAT IT IS TRUE NOW, THAT THE CIA SHOULD NOT HAVE ANY LAW ENFORCEMENT POWERS OR FUNCTIONS APART FROM THOSE OF OUR SECURITY PROTECTIVE OFFICERS WHO GUARD AGENCY FACILITIES.

SECOND, THE SUBPOENA POWER IN MANY CASES COULD NOT REASONABLY BE USED IN THE CIRCUMSTANCES IN WHICH THE AGENCY OPERATES. REALISTICALLY, THE AGENCY CANNOT GO INTO COURT -- RISKING DISCLOSURE OF SOURCES AND METHODS -- TO SEEK A COURT ORDER TO HAVE A CONTRACTOR WITH WHICH IT HAS A COVERT RELATIONSHIP TURN OVER DOCUMENTS. CURRENTLY THE DEPARTMENT OF JUSTICE AND THE FBI SEEK SUBPOENAS ON THE AGENCY'S BEHALF. THIS SYSTEM WORKS WELL. WE HAVE FOUND, HOWEVER, THAT THERE IS MORE THAN SUFFICIENT LEVERAGE IN THE CONTRACTUAL RELATIONSHIP ITSELF. THE BOTTOM LINE IS THAT AGENCY INVESTIGATIONS ARE NOT ENCUMBERED BY THE LACK OF SUBPOENA POWER.

THIRD, THE PROPOSED LEGISLATION WOULD RAISE SOME AMBIGUITY ABOUT THE STATUTORY AUTHORITY OF THE DCI TO PROTECT INTELLIGENCE SOURCES AND METHODS AND THE AUTHORITY OF THE INSPECTOR GENERAL TO MAKE INDEPENDENT DECISIONS TO RELEASE SUCH INFORMATION. BECAUSE THE STATUTORY IG WOULD HAVE A SIGNIFICANT AMOUNT OF INDEPENDENCE FROM THE DCI, OUR INTELLIGENCE SOURCES AND FOREIGN LIAISON SERVICES MAY BE RELUCTANT TO PART WITH INFORMATION THAT WILL BE AVAILABLE TO AN OFFICE "INDEPENDENT OF" THE DCI. THEY ARE LIKELY TO BELIEVE, RIGHTLY OR WRONGLY, THAT THE AGENCY WILL NOT BE ABLE TO PROTECT THEIR INFORMATION. WE HAVE A SPECIAL CONCERN THAT OUR FOREIGN INTELLIGENCE SOURCES MAY FEEL THAT THE AGENCY WILL NOT BE ABLE TO PROTECT THEIR IDENTITIES AND THAT THE PERSONAL RISK IS TOO GREAT TO COOPERATE WITH THE AGENCY.

FOURTH, I WOULD SUBMIT THAT IT IS SIMPLY UNREALISTIC TO EXPECT THAT ESTABLISHING A STATUTORY INSPECTOR GENERAL WILL BY ITSELF RESOLVE ANY PERCEIVED FLAWS AND DEFICIENCIES IN THAT OFFICE. IN THIS REGARD, IT IS NOTEWORTHY THAT IN 1976 THE CHURCH COMMITTEE CONCLUDED THAT THE AGENCY NEEDED TO CONTINUE TO EXPAND AND STRENGTHEN ITS INSPECTOR GENERAL STAFF, BUT IT ALSO POINTEDLY REFRAINED FROM RECOMMENDING THAT THE INSPECTOR GENERAL BE ESTABLISHED BY STATUTE. THE CHURCH COMMITTEE RECOGNIZED, AND I BELIEVE IT REMAINS TRUE TODAY, THAT THE BEST WAY TO IMPROVE THE PERFORMANCE OF THE OFFICE OF INSPECTOR GENERAL IS TO GET HIGHLY QUALIFIED AND TRAINED PEOPLE TO SERVE IN THE OFFICE AND TO MAKE IT CLEAR TO ALL EMPLOYEES THAT THEY ARE EXPECTED TO COOPERATE FULLY WITH THE INSPECTOR GENERAL OR RISK SEVERE CONSEQUENCES. I AM CONVINCED THAT WE ARE NOW ON THE RIGHT TRACK IN THESE AREAS.

FINALLY, APART FROM SENATOR SPECTER'S PROPOSED LEGISLATION, I NOTE THAT THIS COMMITTEE HAS NOW FORMED ITS OWN AUDIT GROUP. THE AGENCY IS OF COURSE FULLY SUPPORTIVE OF THIS EFFORT AND IS COOPERATING WITH THE COMMITTEE'S AUDITORS.

THE CHANGES IN THE DUTIES AND PERCEPTIONS OF THE AGENCY'S INSPECTOR GENERAL AND HIS STAFF THAT I HAVE DESCRIBED ARE SIGNIFICANT ONES. WE ARE WELL DOWN THE ROAD TOWARD BUILDING AN EFFECTIVE MEANS OF ENSURING COMPLIANCE WITH LAWS, REGULATIONS, EXECUTIVE ORDERS AND PRESIDENTIAL DIRECTIVES. I ASK THAT WE BE GIVEN THE OPPORTUNITY TO DEMONSTRATE THE EFFECTIVENESS OF THESE CHANGES, RATHER THAN BE FORCED TO LIVE WITH A SYSTEM THAT FAILS TO ACCOMMODATE THE AGENCY'S UNIQUE CONCERNS. FOR CIA, THIS IS THE BETTER COURSE TO TAKE. I AM CONVINCED THAT NEITHER I, NOR THE CONGRESS, WILL BE DISAPPOINTED.

THIS CONCLUDES MY STATEMENT. I AM PREPARED TO ANSWER ANY QUESTIONS YOU MAY HAVE.

STATEMENT OF THE  
DIRECTOR OF CENTRAL INTELLIGENCE  
BEFORE THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE  
HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1988

MR. CHAIRMAN AND MEMBERS OF THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE, I AM PLEASED TO BE HERE TODAY TO SHARE SOME OF MY THOUGHTS ON H.R. 3822, THE INTELLIGENCE OVERSIGHT ACT OF 1987. THE VIEWS EXPRESSED IN THIS STATEMENT ALSO REFLECT THE POSITION OF THE ADMINISTRATION WITH RESPECT TO THE ISSUES MY STATEMENT ADDRESSES. OTHER ADMINISTRATION WITNESSES HAVE DISCUSSED, OR WILL DO SO, THE SIGNIFICANT CONSTITUTIONAL PROBLEMS THIS BILL RAISES AS WELL AS THE IMPACT IT MAY HAVE ON THE ACTIVITIES AND PROGRAMS OF OTHER AGENCIES. I WOULD ALSO DRAW YOUR ATTENTION TO THE ADMINISTRATION'S POSITION, AS CONVEYED TO CONGRESS IN THE PRESIDENT'S LEGISLATIVE MESSAGE LAST MONTH, THAT A BILL WHICH FAILS TO PRESERVE THE FLEXIBILITY AND AUTHORITY THE PRESIDENT NEEDS TO CONDUCT INTELLIGENCE ACTIVITIES EFFECTIVELY WILL NOT BE ACCEPTABLE TO THE PRESIDENT.

THE BILL BEING CONSIDERED BY THE COMMITTEE TODAY IS SIMILAR IN MANY RESPECTS TO A BILL REPORTED OUT OF THE SENATE INTELLIGENCE COMMITTEE LAST MONTH. DURING ITS CONSIDERATION OF THAT BILL, THE SENATE INTELLIGENCE COMMITTEE INVITED ME TO PROVIDE MY VIEWS. I TESTIFIED AT THAT TIME ON TWO ISSUES: WHETHER LEGISLATION WAS NECESSARY; AND WHAT PRACTICAL IMPACT THE SENATE BILL WOULD HAVE ON THE INTELLIGENCE COMMUNITY. I INTEND TO ADDRESS BOTH POINTS IN MY TESTIMONY TODAY ON THE HOUSE BILL.

THE NEED FOR LEGISLATION

AS YOU ARE PROBABLY NOW AWARE, IN MY REMARKS BEFORE THE SENATE INTELLIGENCE COMMITTEE I QUESTIONED THE NEED FOR THIS TYPE OF LEGISLATION. ALTHOUGH THE SENATE INTELLIGENCE COMMITTEE SUBSEQUENTLY DECIDED TO RECOMMEND APPROVAL OF THE LEGISLATION, I STILL STRONGLY DOUBT THAT THIS LEGISLATION IS A NECESSARY RESPONSE TO THE CONCERNS MEMBERS OF CONGRESS HAVE EXPRESSED ABOUT THE OVERSIGHT OF SPECIAL ACTIVITIES. AS YOU KNOW, THE PRESIDENT RECOGNIZED LAST SPRING THAT THERE WAS ROOM FOR IMPROVEMENT IN THE WAY THE TWO BRANCHES WERE MEETING THEIR RESPONSIBILITIES, AND HE TOOK CONCRETE, SUBSTANTIAL STEPS TO ESTABLISH IMPROVED PROCEDURES TO ENSURE THAT CONGRESS IS GIVEN THE OPPORTUNITY TO PLAY ITS APPROPRIATE OVERSIGHT ROLE. THESE NEW PROCEDURES IN THE FORM OF A NEW NATIONAL SECURITY DECISION DIRECTIVE ON SPECIAL ACTIVITIES (NSDD 286), WHICH THIS COMMITTEE HAS HAD FOR REVIEW IN FULL AND MUCH OF WHICH WAS RECENTLY DECLASSIFIED, CLARIFY THE RULES BY WHICH SPECIAL ACTIVITIES ARE REVIEWED, APPROVED, AND REPORTED TO CONGRESS. IN FACT, MANY OF THE PROPOSALS CONTAINED IN H.R. 3822 ARE ALREADY CONTAINED IN NSDD 286. THAT IS NOT SURPRISING, BECAUSE THE PROCEDURES THE PRESIDENT HAS INSTALLED WERE DEVELOPED FOLLOWING CLOSE AND PROLONGED CONSULTATION WITH MEMBERS AND STAFFS OF THE INTELLIGENCE COMMITTEES.

WHILE A PRESIDENTIAL DIRECTIVE IS NOT THE SAME AS LEGISLATION, I AM NOT PERSUADED THAT NEW LEGISLATION AT THIS TIME IS THE BEST WAY TO ADDRESS THE CONCERNS THAT MEMBERS HAVE WITH THE CONGRESSIONAL ROLE REGARDING SPECIAL ACTIVITIES. IN MY VIEW, A LEGISLATIVE REMEDY SHOULD BE EMPLOYED ONLY IF IT IS CLEAR THAT THERE IS A BASIC DEFICIENCY IN THE OVERSIGHT PROCESS. THAT IS DOUBLY THE CASE WHEN THE LEGISLATIVE REMEDY PROPOSED RAISES CONSTITUTIONAL ISSUES WHICH THREATEN TO DIVIDE THE TWO BRANCHES IN AN AREA WHERE EFFECTIVE WORK PLACES A PREMIUM ON COOPERATION.

THE IRAN/CONTRA MATTER, WHILE EXTREMELY SERIOUS, HAS NOT IN MY VIEW DEMONSTRATED THAT THE SYSTEM OF CONGRESSIONAL OVERSIGHT OF THE INTELLIGENCE COMMUNITY ESTABLISHED UNDER CURRENT STATUTES IS SERIOUSLY FLAWED. MANY OF THE PROBLEMS EXPOSED IN CONNECTION WITH THAT UNFORTUNATE PERIOD WERE THE RESULT OF OFFICIALS FAILING TO FOLLOW EXISTING PROCEDURES AND RULES. AS THE COMMITTEE IS AWARE, I HAVE TAKEN STEPS WITHIN THE CIA TO DISCIPLINE THOSE EMPLOYEES WHO FAILED TO FOLLOW CIA PROCEDURES AND MEET THE STANDARDS OF CONDUCT EXPECTED OF CIA EMPLOYEES OR WHO TESTIFIED TO CONGRESS IN A MANNER THAT WAS NOT CANDID OR FORTHCOMING. THOSE ACTIONS, TAKEN IN LIGHT OF THE REQUIREMENTS DEFINED BY CURRENT STATUTE, IN MY VIEW HAVE ADEQUATELY



ADDRESSED THE PROBLEMS WE FOUND. SIMILARLY, TO THE EXTENT THAT THERE WERE ANY PROCEDURAL SHORTCOMINGS DEMONSTRATED BY THE IRAN/CONTRA MATTER, THEY HAVE ALREADY BEEN ADDRESSED BY THE NEW PRESIDENTIAL DIRECTIVE WITHIN THE PRESENT STATUTORY FRAMEWORK.

I WOULD LIKE TO EMPHASIZE THAT ANY LEGISLATION THAT IS ENACTED MUST NOT ADVERSELY AFFECT THE INTELLIGENCE COMMUNITY'S ABILITY TO DO ITS JOB. IN THIS CONNECTION, MR. CHAIRMAN, THE BILL YOU INTRODUCED, AND THE BILL REPORTED OUT OF THE SENATE INTELLIGENCE COMMITTEE, HAVE SOUGHT TO ADDRESS CONSTRUCTIVELY SOME OF THE IMPORTANT CONCERNS I AND OTHER ADMINISTRATION OFFICIALS RAISED BEFORE THE SENATE INTELLIGENCE COMMITTEE WHEN IT CONSIDERED ITS ORIGINAL BILL. THAT BILL, FOR EXAMPLE, RECOGNIZES THE NEED TO REPORT ON SPECIAL ACTIVITIES AND INTELLIGENCE COLLECTION IN A MANNER CONSISTENT WITH DUE REGARD FOR THE PROTECTION OF SENSITIVE INTELLIGENCE SOURCES AND METHODS. I AM ALSO PLEASED THAT NEITHER THE HOUSE NOR THE SENATE BILLS REQUIRE THAT THE FINDING SPECIFY THE IDENTITY OF FOREIGN COUNTRIES ASSISTING THE AGENCY IN THE CONDUCT OF SPECIAL ACTIVITIES. THE PROVISIO ON PROTECTION OF SOURCES AND METHODS, AND THE ADILITY TO PROTECT THE IDENTITY OF FOREIGN COUNTRIES ASSISTING US WILL GO A LONG WAY IN ASSURING FRIENDLY SERVICES AND POTENTIAL AGENTS THAT SOURCE IDENTIFYING INFORMATION WILL NOT BE WIDELY DISSEMINATED AND POSSIBLY COMPROMISED.

PRIOR NOTICE OF SPECIAL ACTIVITIES

WHILE THE HOUSE BILL ADDRESSES SEVERAL CONCERNS PREVIOUSLY RAISED IN MY TESTIMONY BEFORE THE SENATE INTELLIGENCE COMMITTEE, THERE ARE FOUR AREAS OF THE BILL THAT ARE TROUBLE SOME. THE FIRST AREA OF DIFFICULTY INVOLVES THE PROVISION OF THE BILL THAT REQUIRES NOTIFICATION OF A SPECIAL ACTIVITY TO CONGRESS, WITHOUT EXCEPTION, WITHIN 48 HOURS AFTER THE SIGNING OF A FINDING. LAST SUMMER YOU RECEIVED THE VIEWS OF THE DEPARTMENT OF JUSTICE ABOUT THE CONSTITUTIONALITY OF SUCH A PROVISION, SO I WILL NOT ADDRESS THAT ISSUE HERE. I HAVE TWO CONCERNS ABOUT THIS PROVISION. FIRST, THE FACT THAT THERE IS A SHARP DIFFERENCE OF INTERPRETATION BETWEEN THE VIEW OF THE DEPARTMENT OF JUSTICE AND THE POSITION EMBODIED IN THIS BILL REGARDING THIS PROVISION'S CONSTITUTIONAL VALIDITY WILL PROMOTE TENSION BETWEEN THE EXECUTIVE AND LEGISLATIVE BRANCHES FOR YEARS TO COME. IN THE INTELLIGENCE AREA SUCH TENSION HAS THE POTENTIAL TO DISRUPT THE KIND OF COOPERATION AND TRUST EFFECTIVE NATIONAL POLICY REQUIRES. SECOND, I BELIEVE THAT SOME ALLOWANCE MUST BE MADE FOR THAT RARE CASE WHERE A LIMITED DELAY IN CONGRESSIONAL NOTIFICATION IS CRITICAL TO PRESERVE THE ABSOLUTE SECURITY OF AN OPERATION WHEN, FOR EXAMPLE, LIVES ARE AT STAKE. FURTHERMORE, IT IS WORTHWHILE TO NOTE THAT ANY CONCERNS ABOUT EXCESSIVE DELAY IN CONGRESSIONAL NOTIFICATION OF

A SPECIAL ACTIVITY HAVE ALREADY BEEN ADDRESSED BY NSDD 286. THAT DIRECTIVE REQUIRES THE NATIONAL SECURITY PLANNING GROUP TO REEVALUATE AT LEAST EVERY 10 DAYS A DECISION TO DELAY CONGRESSIONAL NOTIFICATION OF A GIVEN FINDING. THIS WILL ENSURE THAT WHEN A DELAY IN NOTIFICATION IS NECESSARY, THE REASON FOR THAT DECISION WILL BE CONTINUALLY REASSESSED SO THAT THE DELAY WILL BE AS SHORT AS POSSIBLE. I REPEAT, HOWEVER, THAT I CAN THINK OF FEW CIRCUMSTANCES THAT WOULD EVER NECESSITATE SUCH EXTRAORDINARY STEPS.

#### SPECIAL ACTIVITIES DEFINITION

MY SECOND AREA OF CONCERN IS WITH THE DEFINITION OF "SPECIAL ACTIVITIES." THIS TERM IS USED TO DESCRIBE COVERT ACTION OPERATIONS. THERE CURRENTLY IS NO DEFINITION OF THE TERM "SPECIAL ACTIVITIES" IN THE LAW. THE BILL CREATES A SPECIAL ACTIVITIES DEFINITION, BUT SINGLES OUT AND APPLIES TO CIA A STANDARD THAT IS DIFFERENT FROM THAT APPLIED TO ALL OTHER DEPARTMENTS AND AGENCIES OF THE U.S. GOVERNMENT. FOR CIA, THE BILL DEFINES A SPECIAL ACTIVITY TO COVER ANY OPERATION IN A FOREIGN COUNTRY OTHER THAN ACTIVITIES INTENDED SOLELY FOR OBTAINING NECESSARY INTELLIGENCE. THIS DEFINITION IS THE SAME AS THAT SET FORTH IN THE HUGHES/RYAN AMENDMENT (22 U.S.C §2422) WHICH PROVIDES THE EXISTING STATUTORY FRAMEWORK FOR DETERMINING

WHETHER AN ACTIVITY OF THE CIA IN A FOREIGN COUNTRY REQUIRES A FINDING. BY CONTRAST, FOR ALL OTHER DEPARTMENTS AND AGENCIES, A SPECIAL ACTIVITY IS DESCRIBED AS ANY ACTIVITY CONDUCTED IN SUPPORT OF A NATIONAL FOREIGN POLICY OBJECTIVE ABROAD WHICH IS PLANNED AND EXECUTED SO THAT THE ROLE OF THE U.S. GOVERNMENT IS NOT APPARENT OR ACKNOWLEDGED PUBLICLY, AND FUNCTIONS IN SUPPORT OF SUCH ACTIVITY, BUT DOES NOT INCLUDE ACTIVITIES TO COLLECT NECESSARY INTELLIGENCE, OR DIPLOMATIC ACTIVITIES CARRIED OUT BY THE DEPARTMENT OF STATE OR PERSONS OTHERWISE ACTING PURSUANT TO THE AUTHORITY OF THE PRESIDENT. THIS DEFINITION IS SIMILAR TO THAT SET FORTH IN SECTION 3.4(H) OF EXECUTIVE ORDER 12333, ISSUED BY PRESIDENT REAGAN ON DECEMBER 4, 1981.

I UNDERSTAND THAT IN CRAFTING THESE DEFINITIONS OF SPECIAL ACTIVITIES IN THE BILL, IT WAS NOT YOUR INTENTION, MR. CHAIRMAN, TO CHANGE IN ANY WAY THE CURRENT STANDARD BY WHICH CIA DETERMINES WHETHER TO OBTAIN A FINDING TO AUTHORIZE A PARTICULAR ACTIVITY. UNFORTUNATELY, MR. CHAIRMAN, MY GENERAL COUNSEL, RUSSELL BRUENNER, WHO IS SEATED BEHIND ME, HAS ADVISED ME THAT THIS DEFINITION, IF ADOPTED, MAY CAUSE CONFUSION ABOUT THE STANDARD USED TO DETERMINE WHETHER A FINDING IS NECESSARY TO AUTHORIZE AN ACTIVITY. WE HAVE ALSO REQUESTED THE DEPARTMENT OF JUSTICE TO EXAMINE THIS ISSUE, AND THEY HAVE REACHED A SIMILAR CONCLUSION.

THE PROPOSED DEFINITION OF SPECIAL ACTIVITIES IN THE BILL COULD ALTER CURRENT PRACTICE. THE EXECUTIVE BRANCH, AS THE COMMITTEE KNOWS, HAS INTERPRETED THE HUGHES/RYAN AMENDMENT IN A MANNER THAT WE BELIEVE IS CONSISTENT WITH ITS LEGISLATIVE INTENT. THE HUGHES/RYAN AMENDMENT, IF GIVEN AN OVERLY RESTRICTIVE INTERPRETATION, WOULD REQUIRE PRESIDENTIAL AUTHORIZATION FOR EVEN THE MOST MINOR OR ROUTINE ACTIVITIES OF THE CIA OVERSEAS IF THEY WERE NOT RELATED SOLELY TO INTELLIGENCE COLLECTION. IN MY JUDGMENT, THAT IS NOT A PROPER INTERPRETATION AND WAS NEVER THE INTENT OF CONGRESS IN ENACTING HUGHES/RYAN.

THE LEGISLATIVE HISTORY TO HUGHES/RYAN AND THE OVERSIGHT ACT OF 1980, CONTEMPLATE A FINDING FOR THOSE ACTIVITIES THAT TRULY CAN BE CONSIDERED COVERT ACTION OPERATIONS. IN THIS CONNECTION, THE DEFINITION OF SPECIAL ACTIVITIES CONTAINED IN THE EXECUTIVE ORDER GIVES MEANING TO THE LANGUAGE AND INTENT OF THE HUGHES/RYAN AMENDMENT IN DETERMINING WHETHER THAT LAW WOULD REQUIRE A FINDING TO AUTHORIZE A PARTICULAR ACTIVITY.

ENACTING H.R. 3822 AS DRAFTED WOULD MAKE IT EXTREMELY DIFFICULT TO CONTINUE SUCH AN INTERPRETATION BECAUSE THE EXECUTIVE ORDER DEFINITION WOULD BY TERMS OF THE STATUTE NOT

APPLY TO CIA. THE CLEAR IMPLICATION WOULD BE THAT CONGRESS INTENDS THAT THE LANGUAGE OF HUGHES/RYAN BE GIVEN A MORE RESTRICTIVE INTERPRETATION.

THIS COULD BE CONSTRUED TO MEAN THE FOLLOWING TYPES OF ACTIVITIES, FOR WHICH FINDINGS ARE NOT OBTAINED TODAY, WOULD HENCEFORTH REQUIRE SPECIFIC PRESIDENTIAL AUTHORIZATION IN EVERY CASE NO MATTER HOW MINOR THE CIA ROLE:

- O COUNTERINTELLIGENCE ACTIVITIES.
- O SUPPORT GIVEN TO THE DEPARTMENT OF STATE IN THE CONDUCT OF DIPLOMATIC ACTIVITIES. THIS WOULD INCLUDE, FOR EXAMPLE, HAVING THE CHIEF OF STATION PRESENT THE U.S. GOVERNMENT POSITION ON A PARTICULAR MATTER TO THE FOREIGN MINISTER BECAUSE OF HIS CLOSE RELATIONSHIP WITH THE FOREIGN MINISTER, OR ARRANGING FOR SECURE TRANSPORTATION OR A MEETING SITE FOR AN AMBASSADOR OR DIPLOMATIC OFFICIAL.
- O MINOR SUPPORT TO THE DEPARTMENT OF DEFENSE OR DEPARTMENT OF STATE IN THE EVACUATION OF AMERICANS FROM FOREIGN COUNTRIES.

- O MINOR SUPPORT PROVIDED TO THE DOD AND OTHER AGENCIES THROUGH THE PURCHASE OF EQUIPMENT OR THE PROVISION OF SERVICES UNDER THE ECONOMY ACT.

IF WE ARE IN AGREEMENT NOT TO ALTER THE CURRENT PRACTICE WITHIN CIA ON WHETHER TO OBTAIN A PRESIDENTIAL FINDING TO GOVERN A PARTICULAR ACTIVITY, I WOULD URGE THE COMMITTEE TO MODIFY THE DEFINITION OF SPECIAL ACTIVITIES CONTAINED IN THE BILL. ONE APPROACH WOULD BE TO REPEAL THE HUGHES/RYAN DEFINITION AND USE THE EXECUTIVE ORDER DEFINITION OF SPECIAL ACTIVITIES TO COVER EVERY DEPARTMENT OR AGENCY, INCLUDING CIA. THERE ARE OTHER POSSIBLE WAYS TO RESOLVE OUR CONCERN, AND I HAVE INSTRUCTED MY STAFF TO WORK WITH THE COMMITTEE TO COME UP WITH MUTUALLY ACCEPTABLE LANGUAGE. THE KEY, AGAIN, I THINK WE CAN AGREE, IS FORMULATING LANGUAGE THAT WILL MAINTAIN THE STATUS QUC. I MUST ADD AS A FINAL NOTE, MOREOVER, THAT THE DEFINITION PROPOSED IN THE BILL TODAY, AS WELL AS THAT IN THE SENATE BILL, ARE DIFFERENT FROM THAT WHICH I ADDRESSED WHEN I TESTIFIED BEFORE THE SENATE INTELLIGENCE COMMITTEE. FOR THAT REASON, I DID NOT HAVE THE OPPORTUNITY TO EXPRESS THESE CONCERNS AT THE TIME OF MY PREVIOUS TESTIMONY.

## FUNDING OF INTELLIGENCE ACTIVITIES

MY THIRD AREA OF SPECIFIC CONCERN IS WITH SECTION 4 OF THE BILL, WHICH AMENDS SECTION 502 OF THE NATIONAL SECURITY ACT OF 1947. SECTION 502(A) OF THE NATIONAL SECURITY ACT LIMITS THE USE OF APPROPRIATED FUNDS. CURRENTLY, APPROPRIATED FUNDS AVAILABLE TO AN INTELLIGENCE AGENCY MAY BE SPENT ONLY IF (1) FUNDING FOR THE ACTIVITY HAS BEEN AUTHORIZED BY CONGRESS; (2) IN THE CASE OF RELEASE FROM THE RESERVE FOR CONTINGENCIES, NOTICE OF THE INTENT TO RELEASE SUCH FUNDS IS GIVEN TO THE INTELLIGENCE AND APPROPRIATIONS COMMITTEES; OR (3) IN THE CASE OF REPROGRAMMINGS OR TRANSFERS, THE ACTIVITY TO BE FUNDED IS A HIGHER PRIORITY INTELLIGENCE ACTIVITY, THE NEED FOR FUNDS FOR SUCH ACTIVITY IS BASED ON UNFORSEEN REQUIREMENTS, AND NOTICE IS GIVEN TO THE INTELLIGENCE AND APPROPRIATION COMMITTEES OF THE INTENT TO MAKE FUNDS AVAILABLE FOR THE ACTIVITY. THE BILL WOULD AMEND SECTION 502(A) OF THE NATIONAL SECURITY ACT TO RESTRICT EXPENDITURE OF ALL FUNDS, AND NOT JUST APPROPRIATED FUNDS. I AM CONCERNED THAT THIS AMENDMENT WOULD JEOPARDIZE OUR AUTHORITY TO CONDUCT CERTAIN ACTIVITIES WHICH CONGRESS HAS SUPPORTED IN THE PAST. SPECIFICALLY, THE AMENDMENT WOULD RESTRICT OUR ABILITY TO USE INCOME GENERATED BY PROPRIETARIES FOR CERTAIN EXPENSES NECESSARY TO MAKE THE PROPRIETARY APPEAR AS A COMMERCIAL ENTITY. THIS WOULD MAKE IT EXTREMELY DIFFICULT



TO OPERATE OUR PROPRIETARIES IN A SECURE MANNER. THE AMENDMENT WOULD ALSO ELIMINATE THE AUTHORITY OF SEVERAL AGENCIES IN THE INTELLIGENCE COMMUNITY TO MAKE CERTAIN ACCOMMODATION PURCHASES FOR OTHER COUNTRIES. FINALLY, THE AMENDMENT WOULD ELIMINATE OUR AUTHORITY TO RECEIVE FUNDS DONATED BY OTHER COUNTRIES TO FINANCE SPECIAL ACTIVITIES FOR WHICH A FINDING HAS BEEN OBTAINED. I SHOULD EMPHASIZE THAT I HAVE NO OBJECTION TO KEEPING THE COMMITTEE GENERALLY INFORMED OF OUR ACTIVITIES IN THESE THREE AREAS. HOWEVER, THERE HAS BEEN NO STATED RATIONALE FOR THE NEED FOR THIS CHANGE, AND IN MY VIEW ADOPTION OF THIS PROVISION WOULD HAVE A VERY SERIOUS AND DETRIMENTAL EFFECT ON OUR CONTINUING ABILITY TO CONDUCT SPECIAL ACTIVITIES, LIAISON ACTIVITIES WITH FOREIGN GOVERNMENTS, AND OPERATIONS OF PROPRIETARIES.

#### TRANSFER OF DEFENSE ARTICLES AND SERVICES

THE FOURTH AREA OF CONCERN IS WITH THE PROVISION OF THE BILL AMENDING SECTION 503 OF THE NATIONAL SECURITY ACT, WHICH CURRENTLY PROVIDES FOR THE REPORTING TO THE INTELLIGENCE COMMITTEES OF THE TRANSFER OF DEFENSE ARTICLES OR SERVICES IN EXCESS OF \$1,000,000 BY AN INTELLIGENCE AGENCY. THE SECTION WOULD BE AMENDED TO REQUIRE THE REPORTING OF DEFENSE ARTICLES OR SERVICES WHICH ARE INDIVIDUALLY WORTH LESS THAN \$1,000,000 BUT WHICH AGGREGATE TO A FIGURE MORE THAN \$1,000,000. I DO NOT

BELIEVE IT IS NECESSARY TO CHANGE THE CURRENT STANDARD FOR REPORTING THE TRANSFER OF DEFENSE ARTICLES AND SERVICES. FURTHERMORE, I NOTE THAT THE PROVISION DOES NOT PROVIDE STANDARDS TO DETERMINE WHEN DEFENSE ARTICLES OR SERVICES SHOULD BE AGGREGATED. ACCORDINGLY, IF THIS PROVISION REMAINS IN THE BILL IN ITS CURRENT FORM, I WOULD URGE THE COMMITTEE TO CONSIDER STATUTORY LANGUAGE OR LEGISLATIVE HISTORY THAT WOULD PROVIDE CLEAR GUIDANCE ON HOW THE INTELLIGENCE COMMUNITY SHOULD AGGREGATE DEFENSE ARTICLES OR SERVICES FOR PURPOSES OF REPORTING TO THE INTELLIGENCE COMMITTEES.

THERE ALSO ARE SEVERAL OTHER PROVISIONS IN THE BILL THAT, WHILE NOT AS WORRISOME AS THE ONES I HAVE TOUCHED ON, WOULD AS WRITTEN POSE PROBLEMS FOR THE INTELLIGENCE COMMUNITY. MY STAFF HAS ALREADY HAD USEFUL DISCUSSIONS WITH THE COMMITTEE STAFF ON THESE PROVISIONS.

IN CLOSING, I WOULD LIKE TO REEMPHASIZE TO EACH OF YOU MY PERSONAL COMMITMENT TO MAKING THE OVERSIGHT PROCESS WORK. IT HAS ALWAYS BEEN CLEAR, AND RECENT EXPERIENCE HAS AGAIN DEMONSTRATED, THAT THE IMPLEMENTATION OF THE FOREIGN POLICY OF OUR GOVERNMENT, INCLUDING SPECIAL ACTIVITIES, CAN ONLY BE SUCCESSFUL WHEN THE EXECUTIVE AND LEGISLATIVE BRANCHES OF GOVERNMENT WORK TOGETHER IN AN ATMOSPHERE OF MUTUAL RESPECT AND

TRUST. THIS SPIRIT OF COOPERATION CAN ONLY OCCUR IF THE INTELLIGENCE COMMITTEES RECEIVE THE APPROPRIATE INFORMATION NEEDED TO REVIEW AND MAKE INFORMED JUDGMENTS ON SPECIAL ACTIVITIES, WHILE AT THE SAME TIME ENSURING THAT THIS INFORMATION IS PROTECTED FROM UNAUTHORIZED DISCLOSURE. THE LAW SHOULD REFLECT NOT ONLY THE NEED FOR COOPERATION, BUT ALSO THE PRESIDENT'S RESPONSIBILITY FOR THE CONDUCT AND MANAGEMENT OF OUR INTELLIGENCE AND THE IMPORTANCE TO THE NATION OF ENSURING THAT THE PRESIDENT HAS THE NECESSARY FLEXIBILITY AND AUTHORITY TO EMPLOY OUR INTELLIGENCE CAPABILITY EFFECTIVELY.

AS I HAVE NOTED, THE PRESIDENT HAS TAKEN CORRECTIVE STEPS TO IMPROVE THE OVERSIGHT SYSTEM THROUGH A PRESIDENTIAL DIRECTIVE. AT CIA, I HAVE APPROVED A NUMBER OF MEASURES WHICH WILL HELP TO PREVENT A REPETITION OF THE SHORTCOMINGS IN THE AGENCY'S PERFORMANCE IN THE IRAN/CONTRA MATTER. IN SHORT, SIGNIFICANT CHANGES HAVE BEEN MADE. I WOULD RESPECTFULLY SUBMIT THAT THEY SHOULD BE GIVEN A CHANCE TO WORK. I AM CONVINCED THAT THE CURRENT FRAMEWORK, AND NOT NEW LAWS, REPRESENTS THE MOST APPROPRIATE AND EFFECTIVE MEANS TO ACHIEVE OUR SHARED COMMITMENT TO HAVE CONGRESS PLAY AN ACTIVE, EFFECTIVE ROLE IN THE OVERSIGHT OF UNITED STATES INTELLIGENCE ACTIVITIES.

THIS CONCLUDES MY STATEMENT. I AM PREPARED TO ANSWER  
WHATEVER QUESTIONS YOU MAY HAVE ON OUR POSITION ON THIS BILL.